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March 30, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE

BY HAND

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W. – Suite TW-A325
Washington, D.C. 20554

Re: Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Texas, CC Docket No. 00-04

Dear Ms. Salas:

On March 30, 2000, Michael Olsen, Deputy General Counsel, NorthPoint Communications, Inc. ("NorthPoint"), Christine Mailloux, Assistant General Counsel, NorthPoint and Ruth Milkman, Lawler, Metzger and Milkman, LLC, counsel to NorthPoint, met with Dorothy Attwood, Legal Advisor to Chairman Kennard to present the enclosed material regarding issues pending before the Commission in the above-referenced proceeding.

In that meeting, NorthPoint reiterated its view that SBC has failed to demonstrate that it has complied with the Section 271 requirements that it provide access to unbundled loops and nondiscriminatory access to operations support systems. In order to demonstrate compliance with the Section 271 requirements, SBC must correct the following deficiencies and provide for third-party verification that the deficiencies have been cured.

Electronic "Flow-through" Systems for all DSL loops

SBC has implemented electronic "flow through" systems only for its own ADSL loops. With a flow-through system, the request for a loop is entered once, and then passes through the pre-ordering, ordering, and provisioning systems electronically without the need for manual rekeying. SBC has not implemented electronic flow-through for DSL competitive LEC offerings, such as NorthPoint's SDSL, so that NorthPoint's requests for loops must be manually re-entered at each stage of the process. These manual processes introduce errors and are not scalable to meet NorthPoint's anticipated demand. The Commission should require SBC to offer electronic flow-through systems for all DSL loops under 18,000 feet, in order to demonstrate that it offers non-discriminatory access to OSS.

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Electronic Access to Loop Make-up Information

Under the UNE Remand order, the SBC-Ameritech Merger Conditions Order, and the Texas arbitration decision, SBC is required to provide electronic access to DSL loop make-up information.¹ The Commission should not grant SBC authority to provide interLATA services in Texas, unless and until SBC demonstrates that it is in fact providing non-discriminatory access to OSS, including electronic access to loop make-up information. In this regard, recent pronouncements by SBC regarding its intention to complete the Plan of Record are sorely deficient.

Address Communications Issues Caused by Structural Organization

Because SBC in Texas operates separate ordering centers and provisioning centers, (the "LSC" and the "LOC"), ordering and provisioning of unbundled loop orders must be handled by two different units before the order is successfully completed. Communications between these two units are highly manual (phone calls, faxes or emails), which introduces an additional point of potential (and frequent) communications failure. For example, if the provisioning center encounters problems with the loop order, the technician is supposed to call or fax information about the delay to the ordering center, which in turn should contact NorthPoint by phone or fax.. In NorthPoint's experience, this system results in chronic misinformation regarding the status of loop orders and provisioning dates for NorthPoint's customers. While NorthPoint does not have a fixed view on the best way to address this deficiency, it is noteworthy that SWBT's sister company, Pacific Bell, has successfully overcome this structural deficiency. Pacific has a shared system, which is used by every organization that participates in provisioning a competitive LEC order, including the ordering center, the provisioning center, and the field technician. Competitive LECs have indirect access to this shared system through a web GUI interface, and therefore need not rely on phone calls or faxes for information. It is also possible that electronic flow-through systems can be implemented in a way that addresses the communications failure that has developed as a result of the organizational structure.

Third Party Verification

Once SBC has implemented the requirements described above, the Commission should require independent third party analysis of the DSL-capable loop pre-ordering, ordering and

¹ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98 (rel. Nov. 5, 1999) ("UNE Remand Order"); Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Ameritech Corporation, Transferor, to SBC Communications, Inc., Transferee, CC Docket No. 98-141, Memorandum Opinion and Order (rel. Oct. 8, 1999); Petition of Rhythms Links, Inc. for Arbitration to Establish An Interconnection Agreement with Southwestern Bell Telephone Company, Docket No. 20226, Petition of DIECA Communications, Inc. d/b/a Covad Communications Company for Arbitration of Interconnection Rates, Terms, Conditions and Related Arrangements with Southwestern Bell Telephone Company, Docket No. 20272, November 30, 1999 ("Texas Arbitration Decision").

provisioning process. Only third-party verification will provide the Commission with adequate assurance that it has a clear and accurate picture of the competitive landscape in Texas. If SBC wishes to rely on its affiliate to demonstrate non-discriminatory access, the third-party analysis must include data concerning the processing of the SBC affiliate's own DSL loop orders.

Pursuant to section 1.1206(b)(1) of the Commission's rules, 47 C.F.R. §1.1206(b)(1), an original and two copies of this letter and enclosure are being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Ruth Milkman". The signature is fluid and cursive, with the first name "Ruth" and last name "Milkman" clearly distinguishable.

Ruth Milkman

Enclosure

cc: Dorothy Attwood
Kathy Brown
Jordan Goldstein
Kyle Dixon
Helgi Walker
Sarah Whitesell
Larry Strickling
Bob Atkinson
Michelle Carey
Jake Jennings



Southwestern Bell Telephone Texas 271 Application



NorthPoint

Michael Olsen
Christine Mailloux
NorthPoint Communications
March, 2000

- SWBT failed to meet its burden of demonstrating ability to meet current and foreseeable demand on DSL-specific basis
- TX PUC analysis and support of SWBT application is at odds with all commenters, is inaccurate and does not reflect actual performance
- TX PUC support relies on SWBT “paper promises”
- SWBT application asks Commission to pass on its compliance without benefit of reliable information on actual experience in meeting DSL needs

Commenters, DSL CLECs, DOJ all concur that SWBT has failed to provide adequate, clear and reliable information sufficient to support a Commission determination that SWBT has met its statutory obligations



- Showing of Commercial Readiness

SWBT must demonstrate that it can satisfactorily meet all current and foreseeable demand such that DSL CLECs have “meaningful opportunity to compete.”

- Flow-through preorder, ordering and provisioning;
- Independent demonstration of ability to meet scaling demand

- Affirmative DSL Showing

Unlike BA, SWBT must demonstrate compliance with 251, 252 requirements with DSL-specific showing

- Operational Separate Affiliate to demonstrate structural remedies in place
- Reliable Performance Measurements to show compliance



- Advanced Solutions Inc. (ASI) will rely on SWBT for entire DSL loop ordering and provisioning process until April 2000, four months after SWBT claimed to have a "fully operational" separate affiliate
- ASI/SWBT Interconnection Agreement contains no terms and conditions for permanent line sharing to judge nondiscrimination, undermining benefits of merger conditions



- SWBT has the burden of demonstrating that it has followed the law
 - Must make affirmative showing
 - Must be DSL specific
 - Not incumbent on Commission, competitors to show compliance “gaps” to rebuff faulty application
- Performance measurements offered in support of application were fatally flawed
 - CLEC Comments, DOJ comments uniformly indicate the SWBT performance measures are nonsensical, inconsistent, and -- even assuming accurate -- demonstrate lack of parity
 - Miscounting PM 55.1-Avg. Install Interval for DSL loops (excepting large numbers of orders)
 - Mismeasuring PM 57-Loop Makeup Information (fails to account for real performance by measuring only a subset of actual activity)
 - Misleading PM 60 - % Missed Installs (SWBT “excuses” out of parity showing by underscoring line sharing discrimination)
 - Missing DSL in PM 5 & 6-Firm Order Confirmations (no DSL specific showing as required by Commission)
- SWBT data “revisions” are late, inscrutable, unaudited, and insufficient to support its January application



- Highly Manual Processes

SWBT service representatives screen, process orders on order-by-order basis, slowing delivery, introducing error and inconsistencies, improperly rejecting NorthPoint orders

- Impact: Resource intensive order processing, not scalable to meet anticipated demand

- Requires Loop Prequalification/Qualification

SWBT's required loop pre-qual and qualification yields inaccurate, delayed and unhelpful results in loop provisioning cycle

- Impact: inability to set customer expectations, undermine customer confidence, unanticipated errors or denials of service

- Flow-through reserved for ADSL loops only

SWBT has implemented flow-through for its own, short-reach (12k) ADSL loops but has denied such scalable processes to DSL CLECs

- Impact: SWBT ADSL orders are provisioned more timely, accurately than competitive DSL loops



- Structural deficiencies in SWBT ordering and provisioning organizations result in regular miscommunications, date changes, delays in establishing services

Communication between SWBTs ordering center (LSC) and provisioning center (LOC) is manual, delayed and error-prone. CLEC interaction with LSC is, as a result, plagued by misinformation on loop order status.

- Impact: NorthPoint cannot reliably obtain accurate or timely information on status of loop orders, accurate installation commitments, or final installation confirmations



- TX PUC analysis on DSL issues is limited, anecdotal, inaccurate
 - DSL loop process changed dramatically in October, limiting DSL "showing" to three months
 - Key Texas DSL arbitration, upon which TX PUC relies as "compliance" not complete until December, implementation results not reflected in SWBT performance showing
 - Back loaded TX PUC attention to DSL issues (Nov, 1999) resulted in SWBT process improvement "commitments" in December, not reflected in SWBT performance showing
- Texas PUC - for both its opening and reply analysis - relied on incomplete data and flawed assumptions
 - TX PUC "approval" relied on heavily discredited "Telcordia DSL test" and SWBT's flawed performance filings
 - TX PUC replies focused on erroneous analysis of "reconciled" November data
 - PUC analysis used data that did not correspond to SWBT/NorthPoint submissions (inexplicable basis for analysis)
 - PUC analysis made apparently arbitrary determinations of order failure "fault" that do not correspond to actual experience (analysis inaccurate, not objective)
 - Relied POR, eventual flow-through, arbitration on "paper promises" of future performance, including compliance that are still not implemented
- No Third-Party or Agreed Upon basis for analyzing SWBT performance



- At a minimum, to demonstrate 271 checklist compliance, SWBT must correct the following :
 - Flow through for all DSL loops under 18Kft to ensure nondiscrimination, ability to meet scaling demands
 - Real-time, accurate, pre-order access to actual loop make up information
 - Eliminate structural failures and communication gap between LSC/LOC (see, e.g, Pacific Bell) to ensure timely and accurate information flow to CLEC on loop status
- SWBT must also verify its checklist compliance with a:
 - Focused/ limited third party analysis of DSL capable loop preorder, ordering and provisioning process to give Commission a clear and accurate picture of competitive landscape in Texas.
 - This analysis must include data from an operational separate affiliate's own DSL loop orders

